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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120321208-2076-02]

RIN 0648-BC07

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2012

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS implements management measures for the 2012 summer flounder, scup, and black sea bass recreational fisheries in Federal waters. These actions are necessary to comply with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Recreational management measures are intended to prevent overfishing the summer flounder, scup, and black sea bass resources in 2012.

DATES: Effective [insert date of filing for public inspection at the Office of the Federal Register].

ADDRESSES: Copies of the Supplemental Environmental Assessment (SEA) for the 2012 recreational management measures document, including the Supplemental Environmental

Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (SEA/RIR/IRFA) and other supporting documents for the recreational management measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281-9218.

#### SUPPLEMENTARY INFORMATION:

##### General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational management measures that apply in the Exclusive Economic Zone (EEZ). The states from North Carolina to Maine manage these fisheries within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern fishing activity in the EEZ, as well as vessels possessing Federal permits for summer flounder, scup, and/or black sea bass, regardless of where they fish.

A proposed rule to implement the 2012 Federal recreational measures for the summer flounder, scup, and black sea bass recreational fisheries was published on April 30, 2012 (77 FR

25394). Additional background and information is provided in the preamble to the proposed rule and is not repeated here.

## 2012 Recreational Management Measures

The 2012 coastwide recreational harvest limits were previously established by a final rule published on April 23, 2012 (77 FR 24151). The 2012 recreational harvest limits are as follows: Summer flounder, 8.76 million lb (3,973 mt); scup, 8.45 million lb (3,833 mt); and black sea bass, 1.32 million lb (599 mt). Recreational harvest limits are the target objectives or “quotas” established for the summer flounder, scup, and black sea bass recreational fisheries. The management measures (i.e., minimum fish size requirements, angler possession limits, and fishing seasons) established by this rule are all designed to ensure that recreational landings do not exceed the recreational harvest limits.

This final rule implements management measures that apply in the Federal waters of the EEZ and to all federally permitted party/charter vessels with applicable summer flounder, scup, and/or black sea bass permits, regardless of where they fish during the 2012 fishing year. The management measures established by this rule are as follows: For summer flounder, use of state-by-state conservation equivalency measures, which is the status quo management system; for scup, a 10.5-inch (26.67-cm) minimum fish size, a 20-fish per person possession limit, and a year-round season; and, for black sea bass, a 12.5-in (31.75-cm) minimum fish size, a 25-fish per person possession limit and fishing seasons from May 19-October 14 and November 1-December 31, as well as an open season of January 1 through the end of February that would have a 12.5-in (31.75 cm) minimum fish size and a 15-fish per person possession limit. More detail on these measures is provided in the following sections.

Federal permit holders are reminded that, as a condition of their Federal permit, they must abide by the Federal measures, even if fishing in state waters. In addition, in instances where the state-implemented measures are different than the Federal measures, federally permitted vessels must adhere to the more restrictive of the two measures. This will be applicable for both the 2012 scup and black sea bass recreational fisheries.

All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

#### Summer Flounder Recreational Management Measures

This final rule implements conservation equivalency as the management approach for the 2012 summer flounder recreational fishery. NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), to permit the use of conservation equivalency to manage the recreational summer flounder fishery. Conservation equivalency allows each state to establish its own recreational management measures to achieve its state harvest limit partitioned from the coastwide recreational harvest limit by the Commission. The combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures, hence the term conservation equivalency. This means that minimum fish sizes, possession limits, and fishing seasons developed and adopted by the individual states from Massachusetts to North Carolina will be utilized as the Federal waters measures for 2012.

The Commission notified the NMFS Northeast Regional Administrator by letter dated May 4, 2012, that the 2012 summer flounder recreational fishery management programs (i.e.,

minimum fish size, possession limit, and fishing seasons) implemented by the states from Massachusetts to North Carolina have been reviewed by the Commission's Technical Committee and approved by the Commission's Summer Flounder Management Board (SF Board). The correspondence indicates that the Commission-approved management programs are projected to restrict 2012 recreational summer flounder coastwide landings consistent with the state-specific requirements established by the Technical Committee and SF Board through the Commission process.

Based on the recommendation of the Commission, the NMFS Northeast Regional Administrator finds that the recreational summer flounder fishing measures proposed to be implemented by the individual states for 2012 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. According to § 648.107(a)(1), vessels subject to the recreational fishing measures of this part and landing summer flounder in a state with an approved conservation equivalency program shall not be subject to Federal measures, and shall instead be subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) has been amended to recognize state-implemented measures as conservation equivalent of the coastwide recreational management measures for 2012. For clarity, the 2012 summer flounder management measures adopted by the individual states vary according to the state of landing, as specified in Table 1.

TABLE 1 - 2012 COMMISSION APPROVED STATE-BY-STATE CONSERVATION EQUIVALENT RECREATIONAL MANAGEMENT MEASURES FOR SUMMER FLOUNDER

State	Minimum Size (inches)	Possession Limit	Open Season
Massachusetts	16.5	5 fish	May 22-September 30
Rhode Island	18.5	8 fish	May 1-December 31
Connecticut*	18	5 fish	May 15-October 31
New York	19.5	4 fish	May 1-September 30
New Jersey	17.5	5 fish	May 5-September 28
Delaware	18	4 fish	January 1-October 23
Maryland	17	3 fish	April 14-December 16
PRFC	16.5	4 fish	All year
Virginia	16.5	4 fish	All year
North Carolina	15	6 fish	All Year

Note: At 44 designated shore sites in CT, anglers may keep 5 fish at 16.0 inches (40.64 cm), May 1-September 30.

### Scup Recreational Management Measures

NMFS is implemented the management measures as proposed in the April 30, 2012, proposed rule. These measures are a 10.5-in (26.67-cm) minimum fish size, a 20-fish per person possession limit, and year-round open season (i.e., January 1-December 31).

These measures, in conjunction with the regional approach being applied to state waters through the Commission, are expected to constrain landings to the 8.45-million-lb (3,833-mt) recreational harvest limit.

NMFS acknowledges that the Commission will continue managing the recreational scup fishery through a Commission-based conservation equivalency program that has no comparable measures in the Federal FMP. Thus, recreational management measures will differ between state and Federal waters in 2012. Historically, very little of the scup recreational harvest comes from Federal waters.

### Black Sea Bass Recreational Management Measures

NMFS is implementing the following measures for Federal waters during the 2012 fishery: A 12.5-in (31.75-cm) minimum fish size and a 15-fish per person possession limit from January 1 through the end of February; and a 12.5-in (31.75-cm) minimum fish size and a 25-fish per person possession limit from May 19-October 14 and from November 1-December 31.

Measures for state waters will vary by state. Because the Commission-based measures implemented by the states are different than the Federal water measures, Federal permit holders are required to adhere to the more restrictive set of measures irrespective of whether the vessel is fishing in state or Federal waters. Similarly, private anglers must adhere to the recreational measures implemented by the state in which the fish will be landed as all the state-implemented measures place restrictions on possession as opposed to landings.

For additional information on state-implemented management measures, please contact the marine fisheries management agency for the state in question or the Commission ([www.asmfc.org](http://www.asmfc.org); (703) 842-0740).

#### Comments and Responses

NMFS received three comments regarding the proposed recreational management measures. All three comments discussed the proposed opening of the recreational black sea bass fishery. Two of the comments requested that NMFS not delay implementing the final rule so that the black sea bass fishery would open on May 19, 2012. One comment requested that NMFS not make the rule effective until after that date. Detailed responses are addressed below.

Comment: The State of Delaware Division of Fish & Wildlife commented that they did not want NMFS to publish the final rule in time to make the Council's recommended May 19, 2012, start date for the recreational black sea bass fishery. Delaware's rulemaking process would not allow them to open state waters on May 19, 2012, which could put federally permitted charter/party vessels home-ported in Delaware at a disadvantage because they could not land their catch in the state until the season is opened in its waters. Delaware claims that this is a violation of National Standard 4 of the Magnuson-Stevens Act.

Response: NMFS disagrees that implementing the Council's recommended measure for the start of the black sea bass fishery is a violation of National Standard 4. Reopening a fishing season is not an allocation or assignment of fishing privileges contemplated by National Standard 4, and does not discriminate between residents of different states. Currently, the Federal regulations prescribe that the black sea bass season starts on May 22. Delaying implementation of this action to satisfy Delaware's request would have negative economic impacts for charter and party boat owners that are home-ported in other states that open the recreational fishing season on May 19. These vessels would be prevented from fishing on their traditional fishing grounds in Federal waters on a weekend (May 19-20) during which a significant amount of recreational fishing is expected to occur. The fact that a uniform coastwide reopening of the black sea bass season in Federal waters has a differing effect among the states is a function of the varied processes these state follow to establish a fishing season. It is not a discriminatory, unfair, or inequitable result imposed by the Federal regulation opening the recreational black sea bass fishery in Federal waters.

Comment: The Recreational Fishing Alliance commented that it supported all of the proposed measures for summer flounder, scup, and black sea bass. The comment expressed concern regarding the opening of the black sea bass fishery and stressed the importance of the additional fishing opportunity that having the rule effective before May 19, 2012, would provide to recreational fishermen.

Response: NMFS agrees that the additional weekend is important for recreational fishermen to take advantage of the increased fishing opportunity recommend by the Council. NMFS has made this rule effective as soon as possible after the close of the proposed rule



comment period in an effort to have the fishery open on May 19, 2012.

Comment: One commenter said that he hoped that there would not be a delay in the opening the black sea bass fishery beyond May 19. The commenter suggested that if the opening was delayed beyond the Council's recommended start date that NMFS add additional time on to the end of the season.

Response: As noted above, NMFS has made this rule effective as soon as possible after the close of the proposed rule comment period in an effort to have the fishery open on May 19, 2012. If the opening is delayed, however, the Council's recommended black sea bass season, as implemented through this rule, already extends the season in October an additional weekend beyond the status quo, and it would not be appropriate from NMFS to add 3 additional days beyond that.

#### Classification

The Regional Administrator, Northeast Region, NMFS, determined that this final rule implementing the 2012 summer flounder, scup, and black sea bass recreational management measures is necessary for the conservation and management of the summer flounder, scup, and black sea bass fisheries, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

#### Administrative Procedure Act

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement for a 30-day delay in effectiveness under the provisions of section 553(d) of the

Administrative Procedure Act because a delay in its effectiveness would not serve any legitimate purpose while unfairly prejudicing federally permitted charter/party vessels. This action will open the recreational black sea bass fishery 3 days earlier than currently scheduled, allowing charter/party vessel operators to book trips starting on Saturday, May 19. Because some states' black sea bass fisheries are already open or will open on May 19, 2012, federally permitted charter/party vessels would be prohibited from fishing, even in state waters, until the Federal regulations are effective. This would unnecessarily disadvantage the federally permitted vessels, which would be prohibited from fishing at a time when state-licensed vessels could be engaged in fishing activities.

In addition, this rule increases the possession limit for scup and extends fishing opportunities for fishermen that would otherwise be constrained under the current seasons. If this final rule is delayed for 30 days, the fishery would likely forego some amount of landings and revenues during the delay period. While some of these restrictions would be alleviated after this rule becomes effective, fishermen may be not able to recoup the lost economic opportunity of foregone trips that would result from delaying the effectiveness of this action. Delaying the opening of the scup and black sea bass seasons would complicate business plans currently being developed by charter/party operations, and prohibit them from effectively advertising and booking trips for the upcoming fishing season.

Finally, requiring a 30-day delay before the final rule becomes effective does not provide any benefit to the regulated parties. Unlike actions that require an adjustment period to comply with new rules, charter/party operators will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this

final rule simply means adhering to the published management measures for each relevant species of fish while the charter/party operators are engaged in fishing activities.

For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay and to implement this rule upon filing with the Office of the Federal Register.

#### Final Regulatory Flexibility Analysis

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the economic impacts described in the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the action. Copies of the EA/RIR/IRFA and SEA are available from the Council and NMFS (see ADDRESSES).

#### Statement of Objective and Need

A description of the reasons why the 2012 recreational management measures for summer flounder, scup, and black sea bass are being implemented, and the objectives of and legal basis for this final rule implementing both actions are explained in the preambles to the proposed rule and this final rule, and are not repeated here.

#### A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

Three comments were received on the proposed rule. However, none of the comments addressed the IRFA or economic analysis and did not result in any changes to the rule.

#### Description and Estimate of Number of Small Entities to Which This Rule Will Apply

The recreational management measures could affect any of the 982 vessels possessing a

Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2010, the most recent year for which complete data are available. However, only 414 vessels reported active participation in the 2010 recreational summer flounder, scup, and/or black sea bass fisheries, based on Vessel Trip Reports where the amount of kept summer flounder, scup, or black sea bass is greater than zero on a reported charter/party trip. The Small Business Administration (SBA) considers commercial fishing entities (NAICS code 114111) to be small entities if they have no more than \$4 million in annual sales, while the size standard for charter/party operators (part of NAICS code 487210) is \$7 million in sales. Because any vessel at any time may be issued an open access charter/party summer flounder, scup, and/or black sea bass permit, it is difficult to determine how many vessels or owners will participate in this fishery in a given year. Although some firms own more than one vessel, available data make it difficult to reliably identify ownership control over more than one vessel. Thus, all of the entities (fishing vessels) affected by this action are considered small entities under the SBA size standards for charter/party fishing businesses (\$7.0 million in annual gross sales). Therefore, there are no disproportionate effects on small versus large entities.

#### Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

#### Description of the Steps Taken to Minimize Economic Impact on Small Entities

In seeking to minimize the impact of recreational management measures (minimum fish size, possession limit, and fishing season) on small entities (i.e., Federal party/charter permit holders), NMFS is constrained to implementing measures that meet the conservation objectives

of the FMP and Magnuson-Stevens Act. Management measures must provide sufficient constraints on recreational landings, such that the established recreational harvest limits have a low likelihood of being exceeded, which might lead to overfishing the stock. This rule maintains the status quo recreational management measures for summer flounder and implements less restrictive management measures for scup and black sea bass in Federal waters.

Summer flounder alternatives. The alternatives examined by the Council and forwarded for consideration by NMFS consisted of the non-preferred alternative of coastwide measures (an 18.5-inch (46.99-cm) minimum fish size, a 2-fish per person possession limit, and open season from May 1 through September 30), and the preferred alternative of state-by-state conservation equivalency (see Table 2 for measures) with a precautionary default backstop (status quo). These were alternatives 1 and 2, respectively, in the Council's SEA/RIR/IRFA. These two alternatives were determined by the Council to provide a high probability of constraining recreational landings to levels at or below the 2012 recreational harvest limit. Therefore, either alternative recreational management system could be considered for implementation by NMFS, as the critical metric of satisfying the regulatory and statutory requirements would likely be met by either.

Next, NMFS considered the recommendation of both the Council and Commission. Both groups recommended implementation of state-by-state conservation equivalency, with a precautionary default backstop. The recommendations of both groups were not unanimous: Some Council and Commission members objected to the use of conservation equivalency, stating a preference for coastwide measures.

For NMFS to disapprove the Council's recommendation for conservation equivalency

and substitute coastwide management measures, NMFS must reasonably demonstrate that the recommended measures are either inconsistent with applicable law or that the conservation objectives of the FMP will not be achieved by implementing conservation equivalency. NMFS does not find the Council and Commission's recommendation to be inconsistent with the implementing regulations of the FMP at § 648.100 or the Magnuson-Stevens Act, including the 10 National Standards.

The additional metric for consideration by NMFS, applicable to the FRFA, is examination of the economic impacts of the alternatives on small entities consistent with the stated objectives of applicable statutes. As previously stated, both coastwide measures (alternative 1) and conservation equivalency (alternative 2) are projected to achieve the conservation objectives for the 2012 summer flounder recreational fishery. However, the economic impacts of the two alternatives are not projected to be equal in the Council's analyses: The economic impacts on small entities under the coastwide measures management system would vary in comparison to the conservation equivalency system, dependent on the specific state wherein the small entities operate.

Quantitative analyses of the economic impacts associated with conservation equivalency measures are not available. This is because the development of the individual state measures occurs concurrent to the NMFS rulemaking process to ensure timely implementation of final measures for the 2012 recreational fishery; thus, the specific measures implemented by states are not available for economic impact analyses. Instead, qualitative methods were utilized by the Council to assess the relative impact of conservation equivalency (alternative 2) to coastwide measures (alternative 1). The Council analysis concluded, and NMFS agrees, that conservation

equivalency is expected to minimize impacts on small entities because individual states can develop specific summer flounder management measures that allow the fishery to operate during each state's critical fishing periods while still achieving conservation goals.

NMFS is implementing the Council and Commission's recommended state-by-state conservation equivalency measures because: (1) NMFS finds no compelling reason to disapprove the Council and Commission's recommended 2012 management system, as the management measures contained in conservation equivalency are projected to provide the necessary restriction on recreational landings to prevent the recreational harvest limit from being exceeded; and (2) the net economic impact to small entities on a coastwide basis are expected to be mitigated, to the extent practicable, for a much larger percentage of small entities.

Scup alternatives. NMFS is implementing the Council's preferred measures as the Federal water measures for the 2012 fishing year: A 10.5-inch (26.67-cm) minimum fish size; a 20-fish per person possession limit; and year-round open season. Similar to the summer flounder discussion, this suite of scup measures (alternative 2) provides the greatest economic opportunity for small entities from the alternatives available by providing the maximum fishing opportunity in Federal waters that also meets the requirements of the Magnuson-Stevens Act, the FMP, and achieves the conservation objectives for 2012. Alternative 1 for a 10.5-inch (26.67-cm) minimum fish size, 10-fish per person possession limit, and open seasons of June 6-September 26 contained measures that had higher impacts on small entities fishing in Federal waters, as it contains more restrictive measures than would be necessary to satisfy the management objectives.

Black sea bass alternatives. As previously stated in the preamble, individual states have

developed and implemented measures for use in state waters. This rule implements the Council's preferred measures (Alternative 2 in the Council's SEA/RIR/IRFA): A 12.5-inch (31.75-cm) minimum fish size and a 25-fish possession limit for the May 19-October 14 and November 1-December 31 fishing seasons; and a 12.5-in (31.75-cm) minimum fish size and a 15-fish possession limit for January 1 through the end of February for Federal waters. This alternative provides the greatest associated economic opportunities to small entities of the measures considered for Federal waters that also meets the statutory and regulatory requirements for the 2012 fishery. Alternative 1 (a 13.0-inch (33.02-cm) minimum fish size, a 25-fish per person possession limit, and open season of May 22 through October 11 and November 1 through December 31), would result in higher impacts on small entities fishing in Federal waters, as it contains more restrictive measures than would be necessary to satisfy the management objectives.

#### Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as the small entity compliance guide was prepared and will be sent to all holders of Federal party/charter permits issued for the summer flounder, scup, and black sea bass fisheries. In addition, copies of this final rule and the small entity compliance guide are available from NMFS (see ADDRESSES)



and at the following website: <http://www.nero.noaa.gov>.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 17, 2012

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.107, introductory paragraph (a) and paragraph (b) are revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder party/charter and recreational fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by Massachusetts through North Carolina for 2012 are the conservation equivalent of the minimum fish size, season, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively. This determination is based on a

recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

\* \* \* \* \*

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels subject to the recreational fishing measures of this part and registered in states whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the minimum size, season, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission, shall be subject to the following precautionary default measures: Season – May 1 through September 30; minimum size - 20.0 inches (50.80 cm); and possession limit - two fish.

3. Section 648.127 is revised to read as follows:

§ 648.127 Scup recreational fishing season.

Fishermen and vessels that are not eligible for a moratorium permit under § 648.4(a)(6) may possess scup year-round, subject to the possession limit specified in § 648.128(a). The recreational fishing season may be adjusted pursuant to the procedures in § 648.122.

4. In § 648.128, paragraph (a) is revised to read as follows:

§ 648.128 Scup possession restrictions.

(a) Party/Charter and recreational possession limits. No person shall possess more than 20 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a

commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.122.

\* \* \* \* \*

5. In § 648.145, paragraph (a) is revised to read as follows:

§ 648.145 Black sea bass possession limit.

(a) From January 1 through February 28, no person shall possess more than 15 black sea bass in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. From May 19 through October 14, and from November 1 through December 31, no person shall possess more than 25 black sea bass in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 15 black sea bass from January 1 through February 29, or more than 25 black sea bass from May 19 through October 14 and from November 1 through December 31. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142.

\* \* \* \* \*

6. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may possess black sea bass from January 1 through February 28, May 19 through October 14, and November 1 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

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